

CENTRAL INFORMATION COMMISSION

2nd Floor, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi-110066

Decision No. CIC/SB/C/2015/000116

Dated 28.11.2016

Complainant : Shri R.K. Jain,
1512-B,
Bhishm Pitamah Marg,
Wazir Nagar
New Delhi-110003.

Respondent : The Central Public Information Officer,
Customs Excise and Service Tax
Appellate Tribunal,
West Block-2, R.K. Puram,
New Delhi-110066.

Date of Hearing : 28.11.2016

Relevant dates emerging from the complaint:

RTI application filed on : 15.10.2015

CPIO's reply : 04.11.2015

Complaint filed on : 14.11.2015

ORDER

1. Shri R.K. Jain filed an application dated 15.10.2015 under the Right to Information Act, 2005 (RTI Act) before the Public Information Officer (PIO), Customs Excise and Service Tax Appellate Tribunal (CESTAT) seeking information on six points pertaining to certain Appeals and Applications including (a) Appeal No. ST/59755/2013 (Sahara India T.V. Network Vs. CCE, Noida), (b) Appeal No. ST/58068/2013 (CCE& ST, Rohtak Vs. Indian Oil Corporation Ltd), (c) Appeal No. ST/57583/2013 (KEC International Ltd Vs. CST, Delhi), (d) Appeal No. ST/55848/2013 (Khem Sale Agencies Vs. CCE & ST, Bhopal), (e) Appeal No. ST/59854/2013 (Avinash Builders Vs.

CCE & ST, Raipur, (f) Appeal No. ST/828/2010 (Microsoft Corporation (India) Pvt. Ltd &Ors. Vs. CST, Delhi), (g) Appeal No. ST/55736/2013 (Loesche India Pvt. Ltd Vs. CCE & ST, Noidas) and (h) Appeal No. ST/118/2007 (Airport Authority of India Vs. CST, New Delhi).

2. The appellant filed a complaint dated 14.11.2015 before the Commission on the grounds that the CPIO denied part information claiming that the matter is sub-judice and hence, exempted under Section 8(1)(h) of the RTI Act and that the First Appellate Authority (FAA) too did not respond to his appeal. The complainant states that the Delhi High Court in a case of *MCD v. R.K. Jain*, WP(C) No. 14120/2009, held that “the matter being sub judice before a court is not one of the categories of information which is exempt from disclosure under any of the clauses of Section 8(1) of the RTI Act.” The appellant requested the Commission to institute an inquiry into the matter under Section 18(2) of the RTI Act, 2005, summon and peruse the original records relating to the information sought, impose a penalty on the CPIO under Section 20(1), recommend disciplinary action against the CPIO under Section 20(2) and award appropriate compensation under Section 19(8)(b) of the RTI Act, 2005.

Hearing on 28.11.2016:

3. Both the complainant Shri R.K. Jain and the respondent Shri V.P. Pandey, Assistant Registrar and CPIO, CESTAT and Shri Mohinder Singh, Deputy Registrar, CESTAT were present in persons.

4. The complainant submitted that information in response to Appeal Nos. ST/59755/2013, ST/58068/2013, ST/57583/2013, ST/828/2010 and ST/59854/2013 has not been provided to him by the then CPIO, CESTAT on the ground that the appeals are sub-judice, though, similar information relating to Appeal Nos. E/1112, 1113, 1114/2006 and E/1698/2011 SM. (BR) has been provided to him by the same CPIO in an earlier response to

another RTI applications. The complainant also stated that for furnishing information relating to Appeal Nos ST/ 55848/2013, ST/55736/2013 and ST/118/2007, assistance was sought under Section 5(4) of the RTI Act from the Assistant Registrar (Customs), CESTAT. The complainant further submitted that the Deemed CPIO has not provided any information till dated despite repeated reminders from the CPIO and the complainant. The complainant also stated that the FAA vide order dated 20.07.2016 had also directed the CPIO to collect the information from the concerned parties and provide the same to him. Accordingly, the Deputy Registrar (Customs), CESTAT was directed to provide the information to the CPIO for onward transmission to the complainant.

5. The respondent submitted that the complainant was informed vide letter dated 04.11.2015 that Appeal Nos. ST/59755, 58068, 57583, 59854 of 2013 and Appeal No. ST828/2010 are sub-judice and therefore, any information related to the same is exempted from disclosure under Section 8(1) (h) of the RTI Act. The respondent in respect of other Appeal Nos. had sought assistance under Section 5(4) of the RTI Act from Shri Kripa Shankar, Assistant Registrar, Customs Branch, CESTAT. The respondent (Shri Mohinder Singh, Deputy Registrar, Customs, CESTAT) submitted that the reminders sent by the complainant and the CPIO were received by the Head Clerk, CESTAT. However, the same was not put up before him and, therefore, the information sought could not be provided to the complainant in time.

Interim Decision:

6. The Commission, after hearing the submissions of both the parties and perusing the records, observes that the information sought for has not been provided to the complainant. The Commission further observes that the compliance of FAA's order dated 20.07.2016 has also not been done despite repeated reminders. Therefore, the then CPIO Shri S.K. Verma and the Deemed CPIOs Shri Kripa Shankar Assistant Registrar, Customs Branch,

CESTAT and Shri Mohinder Singh, Deputy Registrar, CESTAT are liable for imposition of penalty in terms of provision under Section 20(1) of the RTI Act, 2005.

7. The then CPIO, Shri S.K. Verma, Shri Kripa Shankar Assistant Registrar, Customs Branch, CESTAT and Shri Mohinder Singh, Deputy Registrar, CESTAT are hereby directed to submit an explanation both by post and through e-mail at do.icsb-cic@gov.in before the Commission, on or before 10.01.2017, explaining why action under Section 20(1) of the RTI Act should not be initiated against them. Shri V.P. Pandey, CPIO, CESTAT will ensure that a copy of this show cause notice is served upon the officer.

8. The then CPIO, Shri S.K. Verma, Shri Kripa Shankar Assistant Registrar, Customs Branch, CESTAT and Shri Mohinder Singh, Deputy Registrar, CESTAT are further directed to appear before the Commission on **24.01.2017 at 12.00 noon** along with a copy of their written explanations.

9. The CPIO, CESTAT is also directed to inform if there is/ are other person(s) responsible for knowingly not providing complete information to the complainant and if so to inform such persons of the show cause hearing and direct them to appear before the Commission on **24.01.2017 at 12.00 noon** along with his/ their written explanations.

10. Copy of decision be given free of cost to the parties.

(Sudhir Bhargava)
Information Commissioner

Authenticated true copy

(V.K. Sharma)
Designated Officer

